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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

SEP 17 1998

FCC MAIL ROOM

In the Matter of)
)
Access Charge Reform for Incumbent)
Local Exchange Carriers Subject to)
Rate-of-Return Regulation)
)

FCC Docket No. 98-101
CC Docket No. 98-77

REPLY COMMENT OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

I. INTRODUCTION

Pursuant to a Notice of Proposed Rulemaking issued on June 4, 1998 (June Notice), the Federal Communications Commission's (FCC) Common Carrier Bureau seeks comment on the appropriate way of implementing access reform for Incumbent Local Exchange Carriers (LECs) that are subject to rate-of-return regulation at the FCC.

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II. THE PENNSYLVANIA POSITION

1. The proposed access reform poses a greater risk to rate-of-return LECs than similar reforms posed to price cap LECs. The June Notice itself recognizes that “[s]ome rate-of-return LECs receive more than 50 percent of their total revenues from interstate access revenues and universal service support, compared to just over 25 percent for LECs subject to price cap regulation.” June Notice, paragraph 15.

2. Given the risk, the Pennsylvania Public Utility Commission (PaPUC) supports the repeated suggestion made during the comment phase of this proceeding that the FCC issue a final order on access charge reform for rate-of-return LECs only after universal service funding and separations issues are decided.

3. The PaPUC suggests that each current rate-of-return LEC should continue to be given the option of voluntarily filing for transition from a rate-of-return LEC to a price cap LEC, pending completion of the FCC’s universal service and separations proceedings. This option provides LECs with regulatory flexibility in choosing the most appropriate regulatory methodology for ensuring the delivery of basic and advanced telecommunications services under the Telecommunications Act of 1996 and state laws such as Chapter 30 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 3001-3009.

4. The PaPUC further requests that the FCC refrain from adopting access reform for rate-of-return LECs pending the outcome of innovative state government initiatives.

5. Innovative programs underway in Pennsylvania to foster and accelerate the introduction of efficient competition in telecommunications markets include: the Commonwealth of Pennsylvania's Telecommunications Services Acquisition, a request for qualified contractors process announced in the Pennsylvania Bulletin on September 5, 1998 (see attached Exhibit A, Notice of the Governor's Office of Administration) and the PaPUC's Global Telecom Settlement initiative underway as of September 3, 1998 (see attached Exhibit B, Joint Statement of Chairman John M. Quain and Commissioner David W. Rolka). The Telecommunications Services Acquisition is a program designed to address telecommunication issues in Pennsylvania such that policy, plans, legislation, procurement, network design, infrastructure development, service availability, standards and affordability can be integrated into a reasonable and understandable fabric to serve the public welfare as well as the needs of businesses and service providers. The Forum to reach settlement on various telecommunications dockets is designed to bring actual telephone competition for all Pennsylvania consumers as quickly as possible. This is a monumental effort not previously attempted by any other state, but Pennsylvania is

committed to competition in the telecommunications industry. Additional state activity includes the multiple petitions recently filed with the PaPUC by Pennsylvania rate-of-return LECs for approval of an alternative and streamlined form of regulation plan and network modernization plans, pursuant to Chapter 30 of the Pennsylvania Public Utility Code.

6. The PaPUC suggests that the touchstone of any reform of the access charge rate structure of rate-of-return LECs should be the impact of such reforms upon the small, rural LECs. In other words, the determining test for implementing any proposed reform of the current price-cap LEC structures must be whether the reform promotes the delivery of basic and advanced telecommunications services through the introduction of competition in the markets of the small, rural rate-of-return LECs without excessive harm and disruption. The PaPUC is very concerned, given our extensive experience with the realities facing many small and rural Pennsylvania LECs, that regulatory or policy changes at the federal level concerning these rural markets could have profound impact on the delivery of basic and advanced telecommunications services in those markets. The PaPUC's concern is further supported by recent research in the field.¹

¹ See D. Linda Garcia and Neal R. Gorenflo, FCC Take Note-Lessons in Internet Diffusion from Rural America (discussing the barriers to diffusion of technology in rural communities and the continuing significance of cooperative, community-based strategies in overcoming those barriers given the unique rural landscape.)

Respectfully submitted,

PENNSYLVANIA PUBLIC UTILITY COMMISSION

By its counsel:

A handwritten signature in cursive script, reading "MR Martin".

Maryanne Reynolds Martin
Assistant Counsel

Frank Wilmarth
Deputy Chief Counsel

Bohdan R. Pankiw
Chief Counsel

Dated: September 16, 1998

(717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.62. Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,
Chairperson

(Pa.B. Doc. No. 98-1463. Filed for public inspection September 4, 1998, 9:00 a.m.)

GOVERNOR'S OFFICE OF ADMINISTRATION

Request for Qualified Contractors (RFQC): Commonwealth Telecommunications Services Acquisition

The Commonwealth of Pennsylvania is seeking to conduct the most comprehensive and complete Telecommunications Services Acquisition in its history. All Commonwealth Telecommunications Services (CTS) used by State government agencies will be brought together in this single acquisition. The CTS will include basic digital transport, voice, data, video and Internet access telecommunications services, together with the appropriate support infrastructures. This acquisition process has been specifically designed to encourage the best and the most innovative service providers to seek out new and innovative solutions.

The primary mission of this acquisition process is to acquire reliable and cost effective telecommunication services to serve better the State Government. It is also anticipated that local governments, schools, as well as the general public will benefit from the expansion of telecommunications services throughout the State. To conduct this acquisition, the Commonwealth will use a much more flexible, and we believe, a more appropriate process, which we have termed a Request for Qualified Contractors (RFQC) process.

The Request for Qualified Contractors will be issued in the near future. Telecommunications Service vendors, and others, interested in receiving an announcement of its release should either email, fax, or mail their request (email preferred) to the Issuing Office: Commonwealth of Pennsylvania, OA/OIT, Room 310 Finance Building, Harrisburg, PA 17120, Att: Nicholas Giordano, Fax: 717-787-0939, Internet: cts_email@state.pa.us

Please provide a complete organization name and the name of the individual within the organization who should receive the announcement, along with a complete mailing address, and if available, a telephone number, fax number and an Internet email address. The announcement will provide the date of availability, and information concerning the various methods for obtaining a complete document with detailed appendices on electronic media (CD-ROM).

When the RFQC is released, the text document will be available over the Internet through the Pennsylvania State government home page (web address www.state.pa.us, search under "Technology"). The detailed appendices containing all of the locations and individual

service requirements per location will, however, only be available on CD-ROM. When the RFQC is released, receipt of the CD-ROM may be requested through the web site.

For those without access to the Internet, the announcement of release will provide information on how to obtain printed copies of appropriate material. In addition, the announcement sent to those responding to this notice will also provide information on alternative methods for obtaining the CD-ROM.

CHARLES F. GERHARDS,
Director
Commonwealth Technology Center

(Pa.B. Doc. No. 98-1464. Filed for public inspection September 4, 1998, 9:00 a.m.)

HEALTH CARE COST CONTAINMENT COUNCIL

Mandated Benefits

Section 9 of Act 34 of 1993 requires that the Health Care Cost Containment Council (Council) review existing or proposed mandated health benefits on request of the executive and legislative branches of government. The Council has been requested by Senator F. Joseph Loeper, Majority Leader and Chairperson of the Senate Committee on Rules and Executive Nominations, to review House Bill 1873, Printers Number 3473 (Gruppo), which would require Hepatitis B immunization for attendance at school after August 1, 1999.

Initial notification of request for information and documentation was published in the *Pennsylvania Bulletin* on July 11, 1998, with documentation due to the Council by August 21, 1998.

Following is a list of the documentation received. This information is available for public review and comment at the Council offices during regular business hours (8:30 a.m. to 5 p.m.) until September 25, 1998. Any additional comments on this information must be received by this time. Council offices are located at: 225 Market Street, Suite 400, Harrisburg, PA 17101. Send comments (six copies) to Flossie Wolf at this address.

House Bill 1873 Submissions

1. Representative John M. Perzel, Majority Leader of the Pennsylvania House of Representatives
 - Letter from Representative Perzel supporting House Bill 1873.
 - Medical literature on Hepatitis B Immunization
2. The Insurance Federation of Pennsylvania
 - Letter from John R. Doubman, Secretary & Counsel, addressing section 9 requirements.
3. Hepatitis B Foundation
 - Letter from Joan M. Block, President, supporting Hepatitis B immunization.
 - Pamphlets on Hepatitis B.
4. Hepatitis Foundation International
 - Letter from Thelma King Thiel, Chairperson and Chief Executive Officer, supporting Hepatitis B immunization.

EXHIBIT B

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105**

Petition of Bell Atlantic-Pennsylvania, Inc.	:	P-00971307
for a Determination of whether a	:	
Telecommunications Service (business)	:	
is Competitive Under Chapter 30 of the	:	
Public Utility Code	:	
Investigation Into Re: Bell Atlantic-	:	P-00971293
Pennsylvania's Entry into In-region	:	
IntraLATA toll Services Under Chapter	:	
30 of the Public Utility Code	:	
Investigation into Bell Atlantic-	:	I-00980075
Pennsylvania's Entry into In-region	:	M-00960840
InterLATA Services under Section	:	P-00961137
271 of the Telecommunications Act	:	
of 1996 and Statement of Generally	:	
Available Terms	:	
Generic Investigation into Intrastate	:	I-00960066
Access Charge Reform	:	
Formal Investigation into Universal	:	I-00940035
Service and Universal Service Funding	:	L-00950105
Mechanism	:	
Application of MFS Intelenet of	:	A-310203F0002
Pennsylvania, Inc. for Approval to	:	
Operate as a Local Exchange	:	
Telecommunications Company in the	:	
Areas Served by the Bell Telephone	:	
Company of Pennsylvania within the	:	
Philadelphia and Pittsburgh LATAS,	:	
and to Establish Specific Policies and	:	
Requirements for the Interconnection	:	
of Competing Local Exchange Networks	:	

Rulemaking Re: Updating and Revising : L-00940095
Existing Filing Requirement Regulations : L-00940095F0002
at 52 Pa. Code §§ 53.52-53.53 Relating :
to Telecommunications Utilities :

JOINT STATEMENT OF CHAIRMAN JOHN M. QUAIN
AND COMMISSIONER DAVID W. ROLKA

At the Pennsylvania Telephone Association annual meeting on June 16, 1998, Governor Ridge re-affirmed his commitment to the development and deployment of telecommunications technology throughout the Commonwealth, and to renewed efforts to bring the benefits of competition to local telephone markets. The Governor stated, "Pennsylvania should be out front when it comes to telecommunications policies and innovations-- a leader among states and a competitor among nations." The Governor's commitment can be seen as in direct relation to the "benchmark" hearing on local telephone competition held before this Commission on March 31, 1998. At that conference, it was stated that an incumbent local exchange carrier ("ILEC") continues to hold approximately 98% of the local market share while competitive local exchange carriers ("CLECs") have only a 2% share of the local market. This imbalance is attributable to a number of factors, and the Commission has moved to address those, both in a re-opening of the MFS investigation docket, and through an informal ILEC/CLEC working group aimed at resolving operational issues through dialogue rather than through complaint and litigation.

But we must do more.

From our perspective, competition is essential to the development and provision of utility services. While Pennsylvania continues to make progress in the area of telephone industry modernization, a number of complex, inter-related proceedings must be resolved if we are to see real competition among local exchange carriers.

In an effort to achieve our desired goal-- actual telephone competition for all Pennsylvania consumers-- as quickly as possible, and to avoid prolonged and costly litigation, the effects of which are ultimately passed along to ratepayers, a forum for an integrated resolution of these complex issues is being offered. We propose to invite the parties and commenters in the above-captioned proceedings to attend a global settlement conference to be convened by the Commissioners. This is a monumental effort not previously attempted by any other state, but Pennsylvania has demonstrated its commitment to competition in the electric industry and is extending that commitment to the telecommunications industry.

It is contemplated that the settlement will encompass the following proceedings: Bell Atlantic-PA's Petition to determine whether intraLATA toll service is competitive under Chapter 30 of the Public Utility Code; Bell's Petition for a determination of whether business

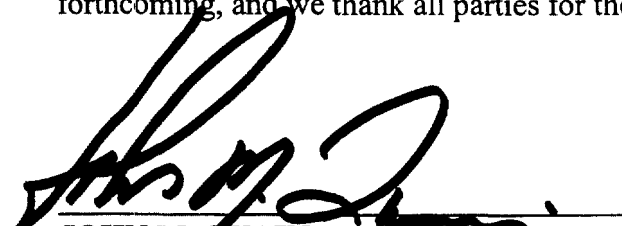
services are competitive; the Commission's proceeding to achieve a Pre-filing Statement from Bell and resolution of Bell's filing for Section 271 relief pursuant to the Telecommunications Act of 1996 and Bell's Statement of Generally Available Terms; the generic investigation into access charge reform; issues surrounding universal service, including the universal service investigation and the universal service funding mechanism; the rulemaking to update and to revise existing CLEC and ILEC tariff filing requirements; and, the investigation into unbundled network elements (MFS IV).

In order to refine the issues and to make our efforts most productive, we will begin with several technical conferences, the first of which will convene on October 13, 1998. As will be set forth in the invitation letter, in order to make the best use of time and recognizing space limitations, similarly situated parties with an identity of interests should designate authorized representatives for these technical conferences and subsequent settlement negotiations.

We anticipate that the series of settlement conferences will follow the technical conferences and be facilitated by Chairman Quain and Commissioner Rolka beginning on October 22, 1998. We anticipate the cooperation of all parties, and we will ask for appropriate waivers and confidentiality agreements consistent with settlement negotiations.

We expect that the parties will attend both the technical conferences and the settlement negotiations prepared to compromise and to reach a resolution of the many complex issues involved. However, if after a good faith attempt at resolution it is determined that a reasonable settlement cannot be reached, we will not hesitate to revert back to standard resolution of these dockets. As in any settlement, the parties will not prejudice their litigation position by participation in these discussions.

We look forward to initiating this process with invitation letters which will be forthcoming, and we thank all parties for their cooperation in entertaining this offer.



JOHN M. QUAIN, CHAIRMAN



DAVID W. ROLKA, COMMISSIONER

DATE: 9/3/98

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Access Charge Reform for Incumbent
Local Exchange Carriers Subject to
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FCC Docket No. 98-101
CC Docket No. 98-77

CERTIFICATE OF SERVICE

I, Maryanne Reynolds Martin , hereby certify that I have on this 16th of September 1998, served a true and correct copy of the Comments of the Pennsylvania Public Utility Commission upon the persons and in the manner indicated below:



Maryanne Reynolds Martin
Assistant Counsel
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

September 16, 1998 by Overnight Express Mail:

Magalie R. Salas, Secretary
Office of the Secretary
FCC
1919 M Street NW
Washington, D.C. 20554

September 16, 1998 by First Class Mail:

Ms. Jeannie Grimes
Common Carrier Bureau
FCC
2000 M Street NW, Suite 235
Washington, DC 20554

Harold Furchgott-Roth
Commissioner
FCC
1919 M Street NW
Washington, DC 20554

ITS
1231 20th Street NW
Washington, DC 20036

Michael Powell
Commissioner
1919 M Street NW
Washington, DC 20554

William E. Kennard
Commissioner
FCC
1919 M Street
Washington, DC 20554

Gloria Tristani
Commissioner
FCC
1919 M Street
Washington, DC 20554

Kathryn Brown, Chief
Common Carrier Bureau
FCC
1919 M Street NW, Room 500
Washington, DC 20554

Daniel Python, Chief
Wireless Telecommunications
FCC
2025 M Street NW, Room 5002
Washington, DC 20554

Maryanne Gordon
Common Carrier Bureau, Room 500
FCC
1919 M Street
Washington, DC 20554

Geraldine Matise
Common Carrier Bureau, Room 500
FCC
1919 M Street
Washington, DC 20554

Susan Ness, Commissioner FCC
FCC
1919 M Street NW
Washington, D.C. 20554